

Remarks

The Examiner has rejected claims 7, 15, 16 and 22 under 35 U.S.C. 112 second paragraph as being indefinite for being unclear. Applicant has amended claims 7, 15, 16 and 22 to address the Examiner's concerns and to clarify the claims. Applicant believes the amended claims overcome the Examiner's rejections under 35 U.S.C. 112 second paragraph.

Claim 1 has been rejected by the Examiner under 35 U.S.C. 102(e) as being anticipated by van der Lely et al. However, van der Lely et al. discloses a closed chamber that does not have a storage volume that varies with the amount of milk contained therein. The storage volume of the milk tank in van der Lely et al. is fixed and does not change because the surfaces defining the storage volume of the milk tank do not move or change position as the amount of milk in the milk tank changes. If the milk tank in van der Lely is not filled to capacity there is empty space within the closed chamber. In contrast, in the invention, there is substantially no empty space within the closed chamber regardless of the amount of milk in the chamber because the storage volume defined by the closed chamber changes as the amount of milk changes. Applicant believes the amendments clarify the claim on this point.

The Examiner has also rejected claim 2 under 35 U.S.C. 102(e) as being anticipated by van der Lely et al. because it discloses a cooling means. However, van der Lely et al. only discloses a cooling means for cooling milk after it enters into the milk tank and not means for cooling the milk before it enters the milk tank.

The Examiner also has rejected claim 3 under 35 U.S.C. 102 (e) in light of van der Lely et al. because it discloses a cooled environment. However, van der Lely et al. does not disclose a cooled environment, but only a cooled tanked bottom. Applicant has amended the claim to clarify the claimed invention.

The Examiner has rejected claim 14 under 35 U.S.C. 102 (e) in light of van der Lely et al. because it discloses a milk tank with a signaling means for signaling when the storage volume has reached its maximum. However, van der Lely et al. does not disclose signaling means indicating when a tank with variable storage volume reaches its full maximum; instead, van der Lely et al. discloses when a tank with a fixed volume is empty, the exact opposite (col. 17 line 5).

The Examiner has also rejected claims 4-7, 12 and 22 under 35 U.S.C. 103(a) as being unpatentable over van der Lely et al. in view of Bender.

First, neither van der Lely et al. nor Bender anticipate the claims in Applicants' invention. As the Examiner points out, van der Lely is silent about at least part of the milk tank being made from a flexible material. Bender also does not anticipate the rejected claims because it is a device for dispensing milk and it fails to disclose, among other things, any type of device for extracting milk or milking animals.

Further, it would not have been obvious to add the tank being made of flexible material to van der Lely et al. as van der Lely et al. relates to milking apparatus attached to large tanks at dairies and includes a valve 66 for supply of air to the tank. Col. 8, line 29. The use of the air valve to introduce air into the tank teaches directly against the invention which discloses minimizing air in the tank through use of flexible tank walls.

Second, there is no suggestion to combine, nor would it be obvious to combine, van der Lely et al. with Bender at the time of the inventions. Van der Lely et al. discloses a milking apparatus for acquiring milk from animals including a rigid bulk milk tank (see van der Lely et al. abstract). Alternatively, Bender discloses a dispensing container used for transporting and shipping milk to the final end user such as a restaurant where the milk is dispensed (Bender, Col. 1 lines 15-20, Col. 2, line 49-58).

The Examiner contends that those skilled in the art at the time of the invention would combine Bender and van der Lely et al. However, Bender concerns a package

for distributing milk after it has been processed in a dairy. There is no incentive for one skilled in the art to consult this teaching when considering improving the storage of milk on a farm. Milk is stored on a dairy in large vessels capable of storing large quantities of milk totaling hundreds of gallons in a single container. Bender concerns smaller quantities of processed milk for distribution to end users such as consumers and restaurants, in quantities of only a few gallons.

Combining van der Lely et al. with Bender, it would be just as obvious to have a milking device milking an animal attached to a milk dispensing device at a restaurant or a flexible milk tank with an air valve for introducing air into the flexible tank, both results being contrary to the aims of the invention.

Both technical fields require completely different technologies and there is no incentive for one skilled in the art to use teachings from the other field, which means that for one skilled knowing van der Lely et al. it would not be obvious to consult the teaching of Bender.

The Examiner has also rejected claims 15-20 under 35 U.S.C. 103(a) as being unpatentable over van der Lely et al. With respect to claims 15-20, applicant believes the amendments to the preceding claims render them patentable.

The Examiner has objected to the drawings for failure to comply with 37 C.F.R. 1.84(p)(5) because reference sign 23 was not included in the drawings. Fig. 2 has been amended to include sign 23, thus overcoming the Examiner's objection.

The Examiner has also objected to the drawings for failure to comply with 37 C.F.R. 1.84 (p)(4) because reference character "30" has been used to designate both supporting wall and holder. Applicants assert that the supporting wall and holder are one in the same and that Applicants' amendment to the specification helps clarify this and overcomes the Examiner's rejection of the drawings.

Page 10
Serial No. 09/868,122
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Based on the amendments to the other claims, claim 13 is directed to the elected species (see page 9, lines 15-35 of the application) and therefore should be considered.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard J. Basile", written over a horizontal line.

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1/4

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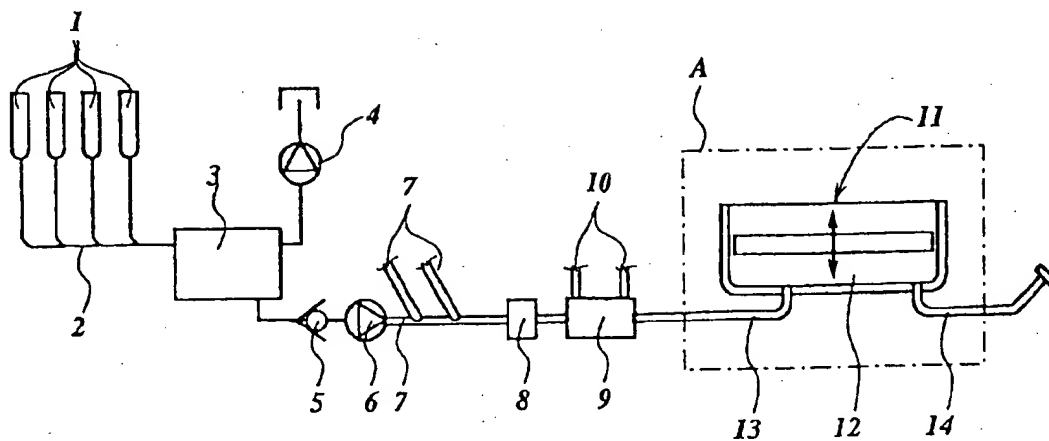


Fig. 1

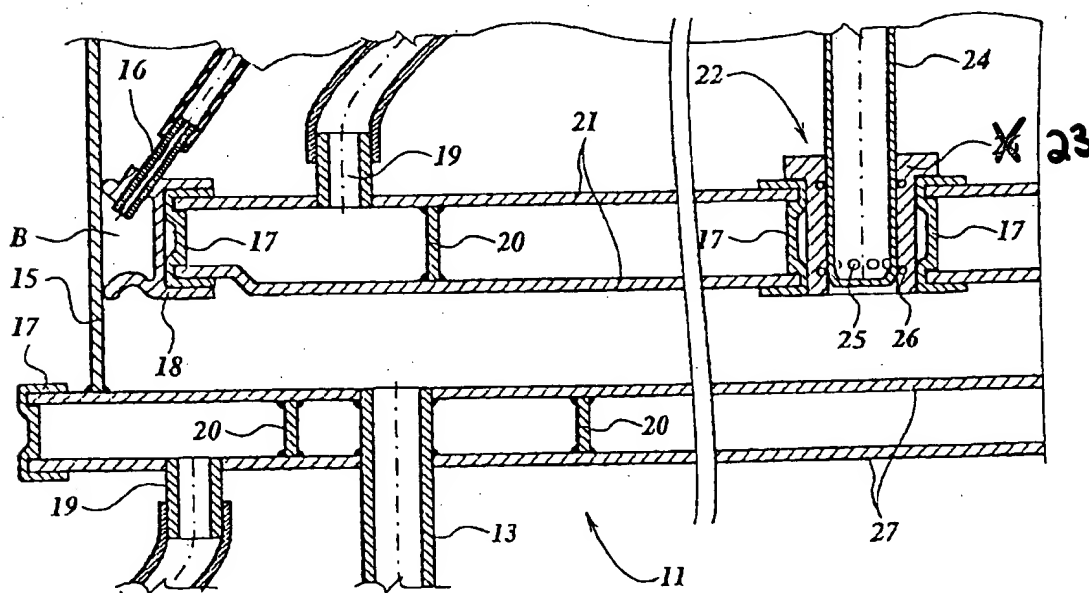


Fig. 2

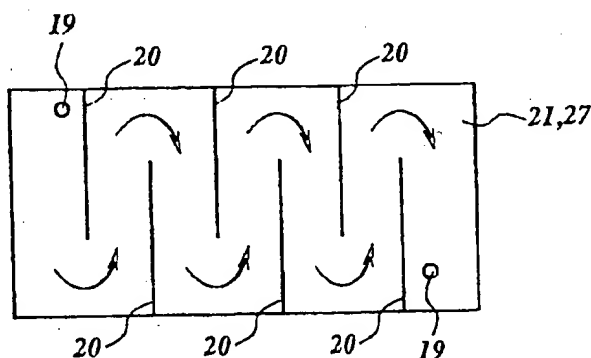
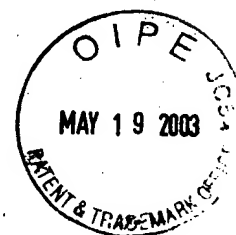


Fig. 3



Drawings approved 5/12/03